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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,105	11/14/2003	Norberto Oscar Gomez	29953-192732	8223
26694	7590	09/14/2005	EXAMINER	
VENABLE LLP			KHAIRA, NAVNEET K	
P.O. BOX 34385			ART UNIT	
WASHINGTON, DC 20045-9998			PAPER NUMBER	

3754

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/712,105

Applicant(s)

GOMEZ ET AL.

Examiner

Navneet Sonia Khaira

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on November 14, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejection under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1- 27, 30-35, 38-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Stoneberg et al (US 6,135,329).

Referring to claims 1, 8, 19, 43 and 46 Stoneberg et al discloses a hollow cap comprising: molded body as one piece (10) comprising:

a container comprising a neck (col 1, line 15)

a radially surrounding sidewall(12);

a top (portion 26) that radially extends from a substantially central cap opening to an end of the top at the sidewall of the cap;

a post (14) adapted for sealingly engaging a receiver opening of a receiver piece;

a support structure (36, fig 1) supporting the post (14) in a spaced position from the cap (60) opening (66, fig 2); and

an internal cap ring (68) formed on an inner surface of the sidewall of the cap (60,fig1) where an outline of the support structure (36, fig 1) forms a

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passageway (38) between the cap (60) opening and a hollow space (82) within the cap (60).

a thread (78,80, col 3, line 46) adapted for slidingly engaging a ramp (80, fig 4) of the receiver piece to slide the cap (60, col 3, line 45) up or down the ramp.

an outline of the support structure (36, fig 1) forming a passageway (38) between the cap opening and a hollow space within the cap; and

a receiver piece (24) comprising a radially surrounding sidewall (fig 1), a substantially central receiver (38, fig 7) opening for sealingly receiving the post of the cap (60), where the receiver opening (38, fig 1) extends completely through the receiver piece.

Referring to claims 2, 9, 20, 31, 44 and 47, Stoneberg et al further discloses the support structure (36, fig 1) contacts an inner surface of the top of cap (60).

Referring to claims 3, 10, 21, 32, 45 and 48, Stoneberg et al further discloses the support structure (36) connects the post (14) to opposite sides of the cap (60) once placed on post.

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Referring to claims 4, 11, 22 and 33, Stoneberg et al further discloses the cap ring (68) forms a sealing surface with a contact surface (16) of the receiver piece (24).

Referring to claims 5, 14, 25 and 40, Stoneberg et al further discloses the top forms a ledge (30, fig 1) over the sidewall.

Referring to claims 6, 15, 26 and 41, Stoneberg et al further discloses the top is a radial ramp that radially ramps down (80, fig 3) from the substantially central cap opening to the end of the top at the sidewall (79, fig 3).

Referring to claims 7, 16, 27 and 42, Stoneberg et al further discloses the radial ramp (80, fig 4) is concave, convex or linear.

Referring to claims 12, 23 and 34, Stoneberg et al further discloses the receiver ring (16, fig 1) forms a sealing surface with a contact surface (79) of the cap (60).

Referring to claims 13, 24 and 35, Stoneberg et al further discloses the cap further comprises a snap ring (push/pull cap 100) formed on the inner surface of the sidewall of the cap to snap over the receiver ring (16, fig 1) when the cap is in a fully closed position (Fig 4).

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Referring to claim 38, Stoneberg et al further discloses the receiver piece comprises a protrusion (34, fig 1) and the forming a substantially central receiver (38) opening comprises trimming (between portions 36) the protrusion (34) to create the substantially central receiver opening (fig 1).

Referring to claim 39, Stoneberg et al further discloses comprising the steps of: filling the body with a product (col 1, line 16) via a second end of the body, the second end being open initially, it is known in the prior art that the containers are sealed at the second end with a seam to create a filled dispenser.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 28,29,36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoneberg et al (US 6,135,329) in view Reil (US 4,848,601).

Referring to claims 28 and 36, Stoneberg et al discloses a dispenser with a first end of the dispenser on a sidewall but does not disclose a dome between the dispenser sidewall and the receiver piece. Reil discloses a dome (2, fig 1) shape between the dispenser sidewall and receiver piece.

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It would have been obvious to have taken the dispenser of Stoneberg et al and have placed it on the container of Reil in order to hold the liquid before being dispensed as taught by Reil.

Referring to claims 29 and 37, Stoneberg et al discloses a dispenser but does not disclose the first end of the dispenser sidewall further comprises a hinged interconnection formed between the dome and the dispenser sidewall. Reil discloses a first end of the dispenser sidewall comprising a hinged interconnection formed between the dome (2) and the dispenser sidewall (24, fig 6).

It would have been obvious to one of ordinary skill in the art to have modified the dispenser of Stoneberg and added the hinge feature of Reil between the dome and dispenser sidewall as disclosed by Reil in order to allow air to pass into the space under cover as taught by Reil.

#### ***Citation of Related Prior Art***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yurkewicz et al (US 6,321,924), Francois (US 6,286,733), and Perlmutter (US 5,145,094) references also disclosed dispensing container closures.

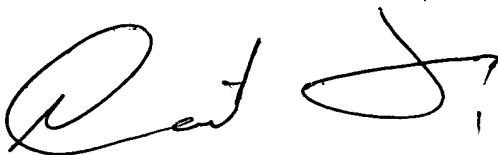
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**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navneet Sonia Khaira whose telephone number is 571-272-7142. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mar Y. Michael can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7142.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Navneet Sonia Khaira  
Examiner  
Art Unit 3754

NK



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